

Originally Filed: September 24, 2021
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NIPPON SHINYAKU CO., LTD.,)	
)	
Plaintiff,)	REDACTED - PUBLIC VERSION
)	
v.)	C.A. No. 21-1015 (LPS)
)	
SAREPTA THERAPEUTICS, INC.,)	[REDACTED]
)	
Defendant.)	

**DEFENDANT SAREPTA THERAPEUTICS, INC.’S
UNOPPOSED MOTION FOR LEAVE TO FILE UNDER SEAL**

Defendant Sarepta Therapeutics, Inc. (“Sarepta”) hereby moves the Court for an Order permitting it to file this Motion to Seal and its Opening Brief in Support of its Motion to Dismiss Claims II-III and to Strike Portions of Plaintiff Nippon Shinyaku Co., Ltd.’s (“Nippon Shinyaku”) First Amended Complaint under seal. Sarepta’s counsel has conferred with counsel for Nippon Shinyaku, and they do not oppose this motion. The grounds for this motion are as follows:

1. This action arises, in part, [REDACTED]

[REDACTED]

2. [REDACTED]

[REDACTED]

[REDACTED]

3. The Opening Brief in Support of its Motion to Dismiss Claims II-III and to Strike Portions of Plaintiff Nippon Shinyaku’s First Amended Complaint [REDACTED]

[REDACTED]

4. This Court has the “inherent equitable power to grant confidentiality orders.” *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 785-86 (3d Cir. 1994). Although there is a “presumption

in favor of public accessibility,” the Court has authority to seal documents “when justice so requires,” provided the party requesting sealing demonstrates that the “interest in secrecy outweighs the presumption” of access. *In re Motions for Access of Garlock Sealing Techs. LLC*, 488 B.R. 281, 299-300 (D. Del. 2013) (quoting *LEAP Sys., Inc. v. MoneyTrax, Inc.*, 638 F.3d 216, 221-22 (3d Cir. 2011)). Thus, “courts may deny access to judicial records, for example, where they are sources of business information that might harm a litigant’s competitive standing.” *Littlejohn v. Bic Corp.*, 851 F.2d 673, 678 (3d Cir. 1988) (citing *Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 598 (1978)); *see also* Fed. R. Civ. P. 26(c)(1)(G) (identifying “confidential . . . commercial information” as one category of information that can be protected via court order); *see also Mylan Inc. v. SmithKline Beecham Corp.*, 723 F.3d 413, 415 n.3 (3d Cir. 2013) (finding good cause to seal documents “to protect the parties’ confidential proprietary business and competitive interests”). Where a party relies on [REDACTED], that party has a privacy interest preventing disclosures of its non-public, confidential business and financial information. *See LEAP Sys.*, 638 F.3d at 222.

5. Permitting Sarepta to file this Motion to Seal and its Opening Brief in Support of its Motion to Dismiss Claims II-III and to Strike Portions of Plaintiff Nippon Shinyaku’s First Amended Complaint under seal will preserve the status quo with respect to [REDACTED]

[REDACTED]. These interests in secrecy outweigh any presumption or interest that may exist in favor of public access to [REDACTED]

WHEREFORE, Sarepta respectfully requests that the Court issue an Order in the form attached hereto permitting Sarepta to file this Motion to Seal and its Opening Brief in Support of

its Motion to Dismiss Claims II-III and to Strike Portions of Plaintiff Nippon Shinyaku's First Amended Complaint under seal and for these documents to remain under seal.

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[PROPOSED] ORDER

This ____ day of September 2021, the Court having reviewed Defendant Sarepta Therapeutics, Inc.’s (“Sarepta”) Motion to Seal its Motion to Seal and Opening Brief in Support of its Motion to Dismiss Claims II-III and to Strike Portions of Plaintiff Nippon Shinyaku’s First Amended Complaint, and the Court having determined good cause exists for the requested sealing, now therefore,

IT IS HEREBY ORDERED that Sarepta’s Motion to Seal is GRANTED.

The Honorable Leonard P. Stark
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2021, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on October 1, 2021, upon the following in the manner indicated:

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